

APPEAL NO. 040972
FILED JUNE 16, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on March 25, 2004. The hearing officer determined that Respondent 1's (attorney) attorney's fees [as approved by a Texas Workers' Compensation Commission (Commission) Order for Attorney's Fees (Order)] in the amount of \$1097.50 are reasonable and necessary.

The appellant (claimant) appeals on much the same basis that he challenged the attorney's fees at the CCH, asserting that the attorney did not assist him for the 14th and 15th quarters of supplemental income benefits (SIBs). The file does not contain a response from the attorney nor from Respondent 2 (self-insured).

DECISION

Affirmed.

The claimant attached documentation to his appeal that was not offered at the CCH by the claimant or the attorney. Documents submitted for the first time on appeal are generally not considered unless they constitute newly discovered evidence. See *generally* Texas Workers' Compensation Commission Appeal No. 93111, decided March 29, 1993; Black v. Wills, 758 S.W.2d 809 (Tex. App.-Dallas 1988, no writ). Upon our review, the evidence offered is not so material that it would probably produce a different result. The evidence, therefore, does not meet the requirements for newly discovered evidence and will not be considered on appeal.

In the order for attorney's fees dated January 27, 2004, the Commission approved 7.15 hours of attorney's fees out of 7.15 hours requested and 0.05 hours of legal assistant fees out of 0.05 hours requested for a total of \$1097.50 out of \$1097.50 requested fees. The claimant essentially argues that the attorney's fees are unreasonable and unnecessary as the attorney did not provide assistance for the 14th and 15th quarters of SIBs, and that he hired the attorney to assist him only for the 13th quarter of SIBs.

We review attorney's fees cases under an abuse-of-discretion standard. Texas Workers' Compensation Commission Appeal No. 020181, decided March 5, 2002. The hearing officer in his Background Information section gave his reason for finding the attorney's fee reasonable and necessary. The hearing officer stated that the evidence was sufficient to establish that the attorney's fees awarded to the attorney's law firm during this period of time were reasonable and necessary. Nothing in our review of the record indicates that the hearing officer abused his discretion in his decision.

Accordingly, the hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**BG
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Veronica L. Ruberto
Appeals Judge

CONCUR:

Daniel R. Barry
Appeals Judge

Elaine M. Chaney
Appeals Judge